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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,134	03/25/2002	Holger Warth	Mo/019/LeA 33,428	2553
157	7590	09/11/2003		
BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			EXAMINER	
			MULLIS, JEFFREY C	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/089,134	WARTH ET AL.
	Examiner	Art Unit
	Jeffrey C. Mullis	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 and 14-26 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) Claim(s) ____ is/are allowed.

6) Claim(s) 1-12 and 14-26 is/are rejected.

7) Claim(s) ____ is/are objected to.

8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> .	6) <input type="checkbox"/> Other: _____

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Claim 14 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The term "in particular" renders the claims unclear since it cannot be determined the "particular" feature is necessarily present.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-11, 14-24 and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hamashima et al. (JP 10245481).

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Hamashima et al. disclose a composition containing polycarbonate, thermoplastic polyesters and graft copolymers. Note the English language Abstract. Note paragraph 24 of the patent where it is disclosed that the polyester includes PEN, i.e. polyethylene naphthalate.

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamashima et al., cited above.

Note the Abstract which discloses that the polyester may also include PET. Therefore, combinations of PET and PEN would have been obvious to a practitioner having ordinary skill in the art at the time of the invention in that patentees disclose that these polyesters may be used in identical roles and in the expectation of adequate results absent any showing of surprising or unexpected results.

Claims 1-4, 8-11, 13-24 and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ueno et al. (JP 49129748).

Ueno et al. disclose a molding composition containing polycarbonate and polytetramethylene naphthalene dicarboxylate.

Claims 1-12 and 14-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. (USP 6,316,579).

Katayama et al. disclose a composition containing polycarbonate, an organophosphate, and a thermoplastic resin. Note the Abstract in this regard.

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The thermoplastic resin may include naphthalate polyesters or PET at column 10 lines 6-19. The phosphates may include various phosphates such as triphenyl phosphate or various diphosphates at column 15 lines 1-28. Graft copolymers may be added at column 12 lines 54-60.

No specific examples of applicants' combination of materials are present but patentees clearly disclose that applicants' materials can be chosen from various components used in combination such that applicants' materials could be chosen in combination based on the disclosure of Katayama et al. Therefore it would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to arrive at applicants' composition based on the disclosure of Katayama et al. in the expectation of adequate results absent any showing of surprising or unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

September 4, 2003

J. Mullis
Primary Examiner
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